

# **SUMMARY OF PUBLIC COMMENTS FOR THE THIRD 15-DAY PUBLIC COMMENT PERIOD AND THE BOARD'S RESPONSES**

## **I.**

### **Introduction**

The State Personnel Board (Board) proposes to adopt Section 547.60.2 of Title 2, Chapter 1, of the Code of Regulations (CCR). A third 15-day public comment period on this rulemaking action was held from December 30 2020, through January 14, 2021. The comments received during the third 15-day public comment period were taken under submission and considered. A summary of those comments and the Board's responses are below.

## **II.**

### **Summary of Written Comments from SEIU, Anne M, Giese, Chief Counsel**

#### Comment I: Contents of Notice Requirements

SEIU voices concerns with the Board's requirements relying heavily on DGS' Contracting Manual (SCM). SEIU explains that the (SCM) section 7.05D.1.c.vi, already provides the following guidance to contracting agencies regarding notifications: "Notifications should contain enough information to enable employee organizations to determine the type of work proposed, estimated value of the contract, bargaining units notified, term of the contract and the anticipated date the contract will be fully executed." In the thousands of notices received by the Union during the existence of these requirements, not one single department has complied with the requirements. The current system of notification is entirely burdensome on the employee organizations and prohibits them from challenging offending contracts on a timely basis. Instead, challengers are often left with a voided contract wherein the contractor has already been paid out for work performed and/or the state workers were displaced.

Given the high volume of state contracting, and the practice of many state departments to minimize or avoid details, adopting a new rule should enhance the system of review. Without an actual mandate, once again departments will skim on the notice and evade the very transparency and effectiveness sought by this rule change.

#### **Response I:**

The Board thanks and appreciates SEIU's feedback for this regulatory package. However, the Board declines to incorporate this change. The amended language now makes it mandatory for contracting agencies to provide specific contract information when notifying employee organizations in order to more efficiently identify and review unjustified

and/or wasteful contracts. Prior to this regulation, the SCM section 7.05D.1.c.vi, served as guidance to contracting agencies. However, by adopting this regulation, the Board now has made it a requirement.

#### Comment II: 20-Day Notice Requirement

SEIU argues against SPB's removal of the general 20-day notice requirement in response to DGS' objections. The 20-day notice period requirement is already fairly short given the circumstances and should remain in the proposed regulation, as should the requirement that the department provide the anticipated execution date of the contract.

Given the high volume of state contracting, and the practice of many state departments to minimize or avoid details, adopting a new rule should enhance the system of review. Without an actual mandate, once again departments will skimp on the notice and evade the very transparency and effectiveness sought by this rule change.

#### **Response II:**

As discussed in the previous summary of comments, the removal of the 20-calendar day notice requirement does not impede employee organizations from challenging PSC's at any time. The potential disruption of the 20-calendar day notice requirement to both state contracting operations and SB/DVBE contracts caused by the 20-calendar day notice requirement outweighs the benefits of employee organizations to review contracts *before* they are executed. The amended language in section 570.60.2, mandates contract agencies to provide information to enable employee organizations to more efficiently identify and review contracts. Accordingly, the Board declines to make this suggested change.